

DEPARTMENT OF HEALTH
AUXILIARY SECRETARIAT OF
ENVIRONMENTAL HEALTH

Puerto Rico
Primacy Revision Application Package

PUBLIC WATER SUPPLY SUPERVISION PROGRAM
AUGUST 21, 2000

PUERTO RICO PRIMACY REVISION APPLICATION PACKAGE

Puerto Rico administers the Public Water Supply Supervision (PWSS) Program pursuant to Section 1413 of the Safe Drinking Water Act (SDWA) and the delegation of primacy enforcement authority from the Environmental Protection Agency (EPA), dated March 1, 1980.

Section 142.12 (e) of the Code of Federal Regulations (CFR) explains that the State already having primacy for all existing National Primary Drinking Water Regulations (NPDWR) in effect when a new regulation is promulgated is considered to have interim primacy for a new or revised regulations, during the period in which EPA makes the determination with regard to the new or revised regulation. The interim enforcement authority begins on the date the primacy revision application is submitted in complete and final form or the effective date of the new or revised State regulation, whichever is later, and ends when EPA makes a final determination.

Revision of State Programs

This request is submitted for approval of the program revision following procedures outlined in 40 CFR 142.12 (b) to (d). State must submit a primacy revision application following procedures:

§ 142.12 (b) Timing of state requests for approval of program revisions to adopt new or revised Federal Regulations

Through this document Puerto Rico PWSS Program submits a combining primacy revision application for the following new or revised regulations that EPA has been recently promulgated.

- Primacy revisions
 - Administrative Penalty Authority
 - Circumstances requiring emergency plans for provision of Safe Drinking Water
 - Public Water System definition
- Consumer Confident report (CCR) Rule

§ 142.12 (b) Contents of a State request for approval of program revision

This application contains the following sections:

1. State Primacy Revision Checklist
2. Text of the State Regulation
3. Primacy Revision Crosswalk
4. State Reporting and Recordkeeping Checklist
5. Attorney General's Statement of Enforceability

1. State Primacy Checklist

This section is a checklist of program elements from 40 CFR 142.10 that the State has revised in response to the new rules.

The programs elements revised in response to new federal requirements were identified. For those items mark as YES, the specific information/documentation were included. Last column was intentionally blank for EPA review process.

Required Program Elements		Revision to State Program (Yes or No)	EPA Findings/ Comments
§ 142.10	Primary Enforcement		
§ 142.10 (a)	Has adopted drinking water regulation which are no less stringent than the NPDWRs in effect under part 141 of this chapter	Yes. Through the General Rule of Environmental Health (See attachment) all federal requirements are adopted by reference. See Attorney General's Opinion	
§ 142.10 (b) (1)	Maintenance of an inventory of public water systems	NR	
§ 142.10 (b) (2)	A systematic program for conducting sanitary surveys of public water systems in the State, with priority given to sanitary surveys of public water systems not in compliance with State primary drinking water regulations.	NR	
§ 142.10 (b) (3)	The establishment and maintenance of State program for the certification of laboratories conducting analytical measurements of drinking water contaminants.	NR	
§ 142.10 (b) (4)	Assurance of the availability to the State of laboratories facilities certified by the Administrator	NR	
§ 142.10 (b) (5)	The establishment and maintenance of an activity to assure that the design and construction of new or substantially modified PWS will be capable of compliance with the State primary drinking water regulations.	NR	
§ 142.10 (b) (6) (i)	Statutory or regulatory enforcement authority adequate to compel compliance with the State primary drinking water regulations in appropriate cases.	Yes. See Attorney General's Opinion	
§ 142.10 (b) (6) (ii)	Authority to Sue in Courts of Competent Jurisdiction	NR	
§ 142.10 (b) (6) (iii)	Right of Entry	NR	
§ 142.10 (b) (6) (iv)	Authority to require records	NR	
§ 142.10 (b) (6) (v)	Authority to require public notification	NR	
§ 142.10 (b) (6) (vi)	Authority to Assess Civil and criminal penalties	Yes, See Attorney General's Opinion	
§ 142.10 (b) (6) (vii)	Authority to require CWSs to provide Consumer Confidence Reports	Yes. See Attorney General's Opinion	
§ 142.10 (c)	The establishment and maintenance of record keeping	NR	
§ 142.10 (d)	Variances and exemptions Conditions	NR	

Required Program Elements		Revision to State Program (Yes or No)	EPA Findings/ Comments
§ 142.10 (e)	Adoption and implement an adequate plan for the provision of safe drinking water under emergency circumstances.	Yes. And unofficial translation of Action Plan for Disaster is included.	
§ 142.10 (f) (1)	Adoption authority for assessing administrative penalties unless the constitution of the State prohibits the adoption of such authority	Yes, a State Administer Order is included.	
§ 142.10 (f) (2)	Establishment a maximum administrative penalty per violation that may be assessed on a PWS	Yes, a State Administer Order is included.	

NR = not revised

2. Text of the State's Regulation

On February 4, 2000, Puerto Rico Department of State approved the *Reglamento General de Salud Ambiental* (General Regulation of Environmental Health that fully adopts by reference the 40 CFR 141, 142 and 143.

3. Primacy Revision Crosswalk

Identification of the State statutory or regulatory provisions that correspond to each federal requirement under 40 CFR 141 should be included in this section.

Federal Requirement 40 CFR	Federal Citation	State Citation Document title; page number; and section paragraph	Explanation, if different than federal requirement
National Primary Drinking Water Regulations	Part 141	General Regulation of Environmental Health Chapter II, Article II Section 1.01 Page 24	
National primary Drinking Water Regulations Implementation	Part 142	General Regulation of Environmental Health Chapter II, Article II Section 1.02 Page 24	
National Secondary Drinking Water Regulations	Part 143	General Regulation of Environmental Health Chapter II, Article II Section 1.03 Page 25	

CONSUMER CONFIDENCE REPORT (CCR) RULE

State Privacy Checklist

Required Program Elements		Revision to State Program (Yes or No)	EPA Findings/ Comments
§ 142.10 (b) (6) (vii)	Authority to require CWSs to provide Consumer Confidence Reports	Yes. See Attorney General's Opinion	

State Reporting and recordkeeping Checklist

Requirement	Are State policies consistent with federal requirements? If not, explain.
§ 142. 16 (f) - Records kept by the States	
§ 142. 16 (f) (2) Each State that has primary enforcement responsibility must make reports submitted to the states in compliance with 40 CFR 141.155 (c) available to the public upon request.	Yes
§ 142. 16 (f) (3) Each State that has primary enforcement responsibility must maintain a copy of the reports for a period of one year.	Yes
§ 142. 16 (f) (3) Each State that has primary enforcement responsibility must keep a copy of the certifications obtained pursuant to 40 CFR 141.155 (c) for a period of 5 years.	Yes
§ 142. 16 (f) (4) Each State that has primary enforcement responsibility must report violations of 40 CFR 141, Subpart O in accordance with the requirements of § 142.15 (a) (1)	Yes
§ 142.15 (a) (1): Each State which has primary enforcement responsibility shall submit quarterly reports to the Administrator on schedule and in a format, prescribed by the Administrator that contains information on violations by PWSs during the previous quarter of State regulations adopted to incorporate the requirements of the NPDWR.	

Primacy Revision

1. Public Water System (PWS) Definition

According to 1996 SDWA Amendments (Section 1401 (4)) and 40 CFR 141.2, the PWS definition is:

Public water system or PWS means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in the connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district". A public water system is either a "community water system" or a "non-community water system".

The revised definition is adopted by reference by the General Rule of Environmental Health (copy included) and certified in the Attorney General. (See Attorney General's statement).

2. Administrative Penalties

According to 1996 SDWA Amendments (Section 1413 (a) (6)) and 40 CFR 142.10 (f) (1) the State has to adopt authority for assessing administrative penalties unless the constitution of the State prohibits the adoption of such authority. For PWS serving a population of more than 10,000 individuals, States must have the authority to impose a penalty of at least \$1,000 per day per violation. For PWS serving population of 10,000 or fewer individuals, States must have penalties that are adequate to ensure compliance with the State regulations as determine by the State.

The Department of Health Secretary issued an Administrative Order (SAO 2000-275-00) "**To Adopt Authority for Administrative Penalties According to the SDWA**" in order to ensure compliance with this minimum administrative penalty requirement. A copy of the State Administrative Order is included.

3. Emergencies Circumstances

According to 1996 SDWA Amendments (Section 1413 (a) (5)) and 40 CFR 142.10 (e) the State has to adopt and implement an adequate plan for the provision of safe drinking water under emergency circumstances including, but not limited to, earthquakes, floods, hurricanes, and other natural disasters.

The Public Water Supply Supervision (PWSS) Program has an Action Plan for Disaster.. The Attorney General Statement certified the existence and legality of it. An unofficial translation is included.